

Mark Brnovich  
Attorney General  
Firm Bar No. 14000

Joseph E. La Rue (031348)  
Senior Litigation Counsel  
Kara Karlson (029407)  
Assistant Attorney General  
2005 North Central Avenue  
Phoenix, AZ 85004-1592  
Telephone (602) 542-4951  
Facsimile (602) 542-4385  
Joseph.Larue@azag.gov  
Kara.Karlson@azag.gov  
adminlaw@azag.gov

*Attorneys for Defendant Arizona Secretary  
of State Katie Hobbs*

**IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF ARIZONA**

Jessica Miracle; Rose Smallcanyon;  
Czaria Lord; Lonnie Arrington; Mendon  
Dornbrook; Mary Katz; NextGen  
Climate Action; and Arizonans for Fair  
Lending (Our Voice, Our Vote Arizona,  
LUCHA),

Plaintiffs,

v.

Katie Hobbs, in her official capacity as  
Arizona Secretary of State,

Defendant.

Case No: 2:19-cv-04694-SRB

**DEFENDANT ARIZONA SECRETARY  
OF STATE'S RESPONSE TO  
PLAINTIFFS' REQUEST TO  
EXPEDITE BRIEFING ON  
PLAINTIFFS' EMERGENCY MOTION  
FOR INJUNCTION PENDING APPEAL  
(DOC. 41)**

Defendant Arizona Secretary of State Katie Hobbs respectfully requests that this Court deny Plaintiffs' request for extremely expedited briefing and consideration of its Emergency Motion for Injunction Pending Appeal, which seeks to truncate both to a little more than forty-eight hours. Plaintiffs received this Court's order denying

1 Preliminary Relief on or about 1:41 p.m. on December 16, which is about 44.5 hours  
2 before they filed the instant Motion. Plaintiffs then seek an eye-popping reduction in the  
3 time for the Secretary to respond from 14 days (or 336 hours) to, at most, 37.85 hours  
4 and then provides this Court a mere 15 hours to rule.

5 This breakneck response time is simply unnecessary. As the Court noted in its  
6 Order, A.R.S. § 19-118(E) “comes into play only *after* all initiative-related speech has  
7 occurred. (Doc. 36 at 6). But the deadline to file petitions is not until July 3, 2020.  
8 Ariz. Const. Art. IV, § 1, Pt. 1 (2). An emergency injunction pending appeal by this  
9 Court with inadequate time for either the parties or this Court to consider the Plaintiffs’  
10 arguments is unnecessary, because challenged law will have no effect for the next seven  
11 months. Moreover, given that *Plaintiffs* are the ones seeking extraordinary relief, there is  
12 no reason that the Secretary or this Court should have to move any faster than  
13 Plaintiffs—who took nearly two full days to file their emergency motion—are willing to  
14 move themselves. Plaintiffs’ unwillingness to act more expeditiously belies their  
15 purported “need” for a decision by 3pm tomorrow.

16 Plaintiffs’ prejudicially-rapid response time is further unwarranted for another  
17 reason: the appeal has been filed and the briefing schedule has already been set. The  
18 Ninth Circuit has ordered Plaintiffs to file an opening brief “not later than January 14,”  
19 the Secretary’s response is due by February 11, or 28 days after the opening brief, and no  
20 streamlined extensions of time will be granted. *Miracle v. Hobbs*, 19-17513 (Doc. 2,  
21 Dec. 17, 2019) (attached as Exhibit 1). In other words, Plaintiffs will receive expedited  
22 consideration at the Ninth Circuit, and in fact they could expedite their own relief by  
23 briefing there, rather than asking this Court to enjoin its own order before the ink has  
24 even dried.<sup>1</sup>

25  
26 <sup>1</sup> Plaintiffs’ fallback request for this Court to summarily deny their motion suggests that  
27 this entire enterprise is merely an attempted end-run around Rule 8(a) of the Federal  
28 Rules of Appellate Procedure, which contemplates that this Court will consider any  
request for an injunction pending appeal in the first instance before the Ninth Circuit  
does. But Plaintiffs do not appear to seek meaningful consideration by this Court, but  
rather merely to check the Rule 8(a) box.

1  
2 For these reasons, it is unnecessary for this Court to entertain Plaintiffs' fire drill.  
3 Because the deadline to file petitions is *months* away, the Secretary respectfully seeks a  
4 modest 8 days to file a response to Plaintiff's motion, until December 26. If Plaintiffs  
5 wish to file a reply brief, they should be permitted a short period in which to do so (*e.g.*,  
6 December 27 or 30). And while this Court should proceed expeditiously in deciding the  
7 motion, there is no need to indulge Plaintiffs' breakneck schedule—and certainly no  
8 need to act more expeditiously than Plaintiffs are willing to do themselves. This still-  
9 expedited timetable properly reflects the lack of true urgency here, while respecting the  
10 upcoming holidays.

11  
12 Respectfully submitted this 18th day of December, 2019.

13 Mark Brnovich  
14 Attorney General

15 s/ Kara Karlson  
16 Joseph E. La Rue  
17 Kara Karlson  
18 *Attorneys for Defendant*  
19 *Arizona Secretary of State Katie Hobbs*  
20  
21  
22  
23  
24  
25  
26  
27  
28

**CERTIFICATE OF SERVICE**

The foregoing was e-filed with the Clerk of the Federal Court for the District of Arizona using the CM/ECF System on December 18, 2019, which served all counsel:

Sarah R. Gonski (# 032567)  
PERKINS COIE LLP  
2901 North Central Avenue, Suite 2000  
Phoenix, Arizona 85012-2788  
Telephone: 602.351.8000  
Facsimile: 602.648.7000  
SGonski@perkinscoie.com

Elisabeth C. Frost (WDC# 1007632)\*  
Uzoma N. Nkwonta (WDC# 975323)\*  
PERKINS COIE LLP  
700 Thirteenth Street NW, Suite 600  
Washington, D.C. 20005-3960  
Telephone: 202.654.6200  
Facsimile: 202.654.6211  
EFrost@perkinscoie.com  
UNkwonta@perkinscoie.com

*Counsel for Plaintiffs*

s/ Caitlin Pagni

PHX - #8421405